

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Gabbard et al.

Serial No.: 10/620,947

Filed: July 16, 2003

For: Background Advertising System



Confirmation No.: 8601

Group Art Unit: 3625

Examiner: To Be Assigned

Docket No.: 190701-1012

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

This information disclosure statement is filed in accordance with 37 C.F.R. §§ 1.56, 1.97, and 1.98, and specifically:

- ☒ under 37 CFR 1.97(b), or
(within Three months of filing national application; or date of entry of international application; or before mailing date of first office action on the merits; whichever occurs last)
- ☐ under 37 CFR 1.97(c) together with either a:
☐ Statement Under 37 C.F.R. 1.97(e), or
☐ a \$180.00 fee under 37 CFR 1.17(p), or
(After the CFR 1.97(b) time period, but before the final office action or notice of allowance, whichever occurs first)
- ☐ under 37 CFR 1.97(d) together with a:
☐ Statement under 37 CFR 1.97(e), and
☐ a \$180.00 petition fee set forth in 37 CFR 1.17(p).
(Filed after final office action or notice of allowance, whichever occurs first, but before payment of the issue fee)

Enclosed is a check in the amount of \$0.00.

Enclosed is Credit Card Payment Form (PTO-2038) in the amount of \$0.00.

Please charge \$0.00 to deposit account 20-0778. At any time during the pendency of this application, please charge any fees required to Deposit Account 20-0778 pursuant to 37 CFR 1.25. The Commissioner is hereby requested to credit any overpayment to Deposit Account No. 20-0778.

- ☒ Applicant(s) submit herewith *Form PTO 1449A - Information Disclosure Statement by Applicant* together with copies (where required) of patents, publications or other information of which applicant(s) are aware, which applicant(s) believe(s) may or may not be material to the examination of this application and for which there may be a duty to disclose in accordance with 37 CFR 1.56. As required by 37 C.F.R. §1.98(a), a legible copy of each document is provided.
- ☐ A concise explanation of the relevance of foreign language patents, foreign language publications and other foreign language information listed on PTO Form 1449, as presently understood by the individual(s) designated in 37 CFR 1.56(c) most knowledgeable about the content is given on the attached sheet, or where a foreign language patent is cited in a search report or other action by a foreign patent office in a counterpart foreign application, an English language version of the search report or action which indicates the degree of relevance found by the foreign office is listed on the form PTO 1449 and is enclosed herewith.

The following rights are reserved by the Applicant(s): the right to establish the patentability of the claimed invention over any of the listed documents should they be applied as reference, and/or the right to prove that some of these documents may not be prior art, and/or the right to prove that some of these documents may not be enabling for the teachings they purport to offer.

This statement should not be construed as a representation that an exhaustive search has been made, or that information more material to the examination of the present application does not exist. Any statements or identifications regarding the relevance of any portion(s) of cited references should not be construed as a representation that the most relevant portion(s) have been identified, and the absence of such statements or identifications should not be construed as representations that there are no relevant portion(s). The Examiner is specifically requested not to rely solely on the materials submitted herewith. The Examiner is requested to conduct an independent and thorough review of the documents, and to form independent opinions as to their significance.

Before the earliest effective filing date of the present application, at least one of the present inventors was aware of an online system known as Prodigy that included advertisements located below a user area that could show user communication messages. In addition, an advertising serving system known as Doubleclick was available for responding to requests for advertisements by serving advertisements from a group of available advertisements.

After the Nov. 16, 1998 filing of Application No. 09/193,459, a parent application to the present application, at least one of the present inventors was aware of a gaming website available at www.2am.com. The 2am system enabled users to play online card games, such as poker, through downloaded client software that displayed a card table and a separate user chat area. The card table, upon which the cards were displayed, showed one or more logos.

It is requested that the information disclosed herein be made of record in this application and that the Examiner initial and return a copy of the enclosed PTO-1449 to indicate the documents have been considered.

Respectfully Submitted,

THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.

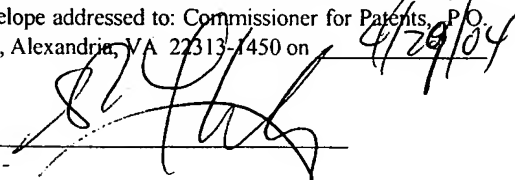
By:


Jeffrey R. Kuester, Reg. No. 34,367

100 Galleria Parkway, Suite 1750
Atlanta, Georgia 30339-5948
770-933-9500

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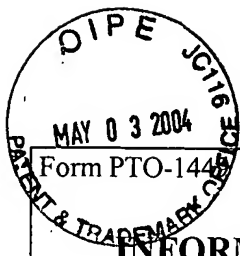
Docket No.: 190701-1012

For: **Background Advertising System**

The following is a list of documents enclosed:

Return Postcard
Information Disclosure Statement (2 Pages)
PTO-1449 - Information Disclosure Citation (10 Pages)
157 Cited References

Further, the Commissioner is authorized to charge Deposit Account No. 20-0778 for any additional fees required. The Commissioner is requested to credit any excess fee paid to Deposit Account No. 20-0778.



Form PTO-1449

INFORMATION DISCLOSURE CITATION*(Use several sheets if necessary)*Attorney Docket No.
190701-1012Serial No.
10/620,947Applicant
Gabbard et al.Filing Date
July 16, 2003Group
3625**U.S. PATENT DOCUMENTS**

Examiner Initials	Item	Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
	A	4,850,007	07/18/89	Marino et al.	379	116.13	
	B	4,994,985	02/19/91	Cree et al.	709	206	
	C	5,276,869	01/04/94	Forrest et al.	709	206	
	D	5,283,887	02/01/94	Zachery	707	513	
	E	5,333,186	07/26/94	Gupta	379	116.09	
	F	5,418,908	05/23/95	Keller et al.	709	206	
	G	5,515,098	05/07/96	Carles	725	35	
	H	5,530,852	06/25/96	Meske, Jr. et al.	709	206	
	I	5,557,721	09/17/96	Fite et al.	705	14	
	J	5,572,643	11/05/96	Judson	709	218	
	K	5,619,648	04/08/97	Canale et al.	709	206	

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No
	L	WO 96/24213	8/8/96	PCT	H04L	29/06		
	M	9-259189	1997	Japan				
	N	9-50441	1997	Japan				

OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Pages, etc.)*

	O	David Pogue, "Reviews," Macworld, April, 1990, pp. 168-172.
	P	P. Lewis "Double-Click an Image, Save a Tree," Oregonian, February 10, 1993, fourth edition, Business Section, page B01.
	Q	E. Scannell "Discovery Lets OLE Integrate Paper Images," Infoworld, Vol. 15, No. 23, p. 17, June 7, 1993.
	R	M. Durr "Fast Imaging on Slow Networks," Datamation, Vol. 40, No. 24, p. 61, December 15, 1994
	S	Dave Taylor; Creating Cool Web Pages With HTML, 2nd Edition; 1995; pages 164-7.
	T	D. Williamson, "This e-mail message is brought to you by..., " Advertising Age, April 17, 1995, p. 1.

* EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

EXAMINER'S SIGNATURE:

DATE CONSIDERED:

Form PTO-1449					Attorney Docket No. 190701-1012		Serial No. 10/620,947	
INFORMATION DISCLOSURE CITATION <i>(Use several sheets if necessary)</i>					Applicant Gabbard, et al.			
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U.S. PATENT DOCUMENTS								
Examiner Initials	Item	Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate	
	U	5,627,997	05/06/97	Pearson et al.	710	65		
	V	5,643,088	07/1997	Vaughn et al.	463	40		
	W	5,654,886	08/05/97	Zereski, Jr. et al.	702	3		
	X	5,675,507	10/1997	Bobo, II	709	206		
	Y	5,706,434	01/06/98	Kremen et al.	709	218		
	Z	5,708,960	01/13/98	Kamisaka et al.	725	31		
	AA	5,724,424	03/03/98	Gifford	705	79		
	AB	5,740,549	04/14/98	Reilly et al.	705	14		
	AC	5,761,673	06/02/98	Bookman et al.	709	311		
	AD	5,778,372	7/1998	Cordell et al.	707	100		
	AE	5,781,894	07/14/98	Petrecca et al.	705	14		
FOREIGN PATENT DOCUMENTS								
		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No
	AF							
	AG							
	AH							
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)								
	AI	Victoria Griffith, "Media Futures: A Hard Sell Down the Line - Advertising is Finding its Feet in Cyberspace," Financial Times, March 6, 1995, pp. 1-2.						
	AJ	Ruddy, LINK-UP, Vol. 12, No. 4, page 33, "HTML explained for dummies -- An attendee of the WWW '95 conference tells all," 7/1/1995.						
	AK	Anon., "WebChat with 105 Channels & 20 Million Hits," Newsbytes, pNEW11220022, November 22, 1995.						
	AL	Youji Kohda, Susumu Endo; "Ubiquitous advertising on the WWW: Merging advertisement on the browser" Computer Networks and ISDN Systems 28, Elsevier Science, 1996, pages 1493-1499.						
<p>* EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.</p>								
EXAMINER'S SIGNATURE:					DATE CONSIDERED:			
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Examiner Initials	Item	Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
	AM	5,781,901	7/1998	Kuzma	707	10	
	AN	5,790,793	08/04/98	Higley	709	218	
	AO	5,794,210	08/11/98	Goldhaber et al.	705	14	
	AP	5,809,242	9/15/98	Shaw et al.	709	217	
	AQ	5,913,040	6/15/99	Rakavy et al.	709	232	
	AR	5,935,228	8/1999	Shinomura	710	302	
	AS	5,973,683	10/1999	Cragun et al.	345	719	
	AT	5,974,451	10/1999	Simmons	709	218	
	AU	6,009,409	12/1999	Adler et al.	705	14	
	AV	6,065,024	5/16/00	Renshaw	707	513	
	AW	6,148,332	11/14/00	Brewer, et al.	709	218	

FOREIGN PATENT DOCUMENTS							
		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	AX						
	AY						
	AZ						

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, etc.)</i>	
BA	Rita Lewis; Create Web Pages Without Learning HTML; 1996; pages 187-194.
BB	David Taylor, "In-context Advertising is the Next Wave," Marketing Computers, v16, nl, p28, Jan., 1996, pp. 1-2.
BC	"Web Software Keeps Ad Message On Every Screen," Media Daily, March 8, 1996, p. 1.
BD	"Web Advertising Comes of Age With SNOW; SNOW Positions Brand Names On Every Home Page," Business Wire, March 8, 1996, p. 1.
BE	Lyon, PC/Computing, Vol. 9, No. 4, page 161, "Free electronic network," 6/1/1996.

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	BD	6,205,432 B1	03/20/01	Gabbard et al.	705	14	
	BE	6,446,097	09/03/02	Glaser	707	513	
	BF	6,487,588	11/26/02	Philips et al.	709	218	
	BG	6,633,850	10/14/03	Gabbard et al.	705	14	
	BH	2002/0129064	09/12/02	Guthrie	707	513	
	BI	2003/0005062	01/01/03	Hachiya et al.	709	206	

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							Yes	No
	BJ							

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

	BK	"IAB Advertising Effectiveness Study Executive Summary," Mbinteractive, 1997, pp. 1-6.						
	BL	Mark Grimes, "CPO: New Media Equals A New Yardstick For Media Buying," ClickZ Network, 5/1/97, pp. 1-4.						
	BM	Keith Pieper, "Clickthrough vs Branding: Aiming For The Long Term With Branding," ClickZ Network, 5/8/97, pp. 1-4.						
	BN	Mosley-Matchett, J.D., "Eyeball' the Validity of Internet Ad Measures," Marketing News, Vol. 31, No. 10, pp. 28-29, May 12, 1997.						
	BO	James Houck, "Advertising Without Seduction: Web Ad Firms Lay It All On The Line," ClickZ Network, 7/17/97, pp. 1-4.						
	BP	Ken Glaser, "Today's Recipe: All The Right Ingredients for Web Success," ClickZ Network, 9/23/97, pp. 1-4.						
	BQ	Suzan Nolan, "The Potential For Online Advertising-In Europe, Or Maybe Yourtown, USA," ClickZ Network, 11/4/97, pp. 1-4.						
	BR	Keith Pieper, "Affiliate Networks: The more the Internet changes business, the more business stays the same," ClickZ Network, 11/22/97, pp. 1-4.						
	BS	Jim Houck, "Brand Advertising on the Internet: Dead or Alive?" ClickZ Network, 12/18/97, pp. 1-4.						
	BT	Andy Bourland, "Biz 101: Getting The Lowest Price When You Buy, Getting the Highest Price When You Sell," ClickZ Network, 5/23/97, pp. 1-4.						
	BU	Debbie A. Everson, "Going Commercial: 10 Steps to Prepare Your Site to Sell Advertising And Sponsorships," ClickZ Network, 6/9/97, pp. 1-7.						
	BV	Rob Frankel, "Performance Based Pricing Models: Double Click or Double Talk?" ClickZ Network, 7/9/97, pp. 1-3.						

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	BW						

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		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
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OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

	BY	Andy Bourland, "Direct Marketing On The Net: Trailer Park Trash or Trump Tower?" ClickZ Network, 7/11/97, pp. 1-4.					
	BZ	Jamie Byrne, "DoubleClick Direct: No Double Talk From DoubleClick," ClickZ Network, 7/15/97, pp. 1-4.					
	CA	Steve Madere, "Deja's Views: Testing Is Key to Performance-Based Pricing," ClickZ Network, 9/2/97, pp. 1-4.					
	CB	Scott Cherkin, "Thinking It Through: Calculating the Risks of Performance Based Pricing," ClickZ Network, 9/19/97, pp. 1-4.					
	CC	Andy Bourland, "Site Publishers: Take the Direct Response Bull by The Horns," ClickZ Network, 9/26/97, pp. 1-3.					
	CD	Robert Grosshander, "Eyegive, Yougive: A New Model for Advertising Dollars," ClickZ Network, 10/3/97, pp. 1-3.					
	CE	Adam J. Boettiger, "The Pay-Per-Sale Advertising Model: A Media Buyer's Dream...Or A Web Site Owner's Nightmare?" ClickZ Network, 10/10/97, pp. 1-6.					
	CF	Keith Pieper, "So You're Thinkin' About Going Direct? It's Still the Impression Business," ClickZ Network, 10/11/97, pp. 1-4.					
	CG	Keith Pieper, "Pay for Performance: All Responses Are Not Created Equal," ClickZ Network, 10/18/97, pp. 1-3.					
	CH	Chris Bertchie, "Decisions, Decisions: Pricing Strategies For Web Site Publishers," ClickZ Network, 11/25/97, pp. 1-4.					
	CI	"IAB Releases 3Q 1998 Web Ad Spending Results," pp. 1-2, http://www.emarketer.com/estats/021699_iab.html .					
	CJ	"eMarketer Tallies the Number of e-Mail Messages Sent in 1998," pp. 1-2, http://www.emarketer.com/estats/020199_email.html .					
	CK	Lois-Bujold Digest 1085, http://ftp.herald.co.uk/pub/lists/bujold-archives/98010-1085 , 1/1/1998.					

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	CL						

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		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	CM						

OTHER DOCUMENTS *(Including Author, Title, Date, Pertinent Pages, etc.)*

	CN	Michael Hess, "The New Year Will Bring Challenges, Rewards In Online Advertising," ClickZ Network, 1/12/98, pp. 1-5.
	CO	Andy Bourland, "Microscope: The Expression of ClickZ's Approach to Advertising And Sponsorship," ClickZ Network, 1/26/98, pp. 1-5.
	CP	Keith Pieper, "Brand Preference: The Final Frontier in Online Competition," ClickZ Network, 1/30/98, pp. 1-4.
	CQ	Rob Frankel, "Branding at the Frankel Corral: The Best Thing You'll Ever Do For Your Product," ClickZ Network, 2/4/98, pp. 1-4.
	CR	Jim Houck, "The Interactive Media Budget: How High Is Up?" ClickZ Network, 2/23/98, pp. 1-4.
	CS	Dr. William Busa, "Out With The Old, In With The Odd," 2/24/98, ClickZ Network, pp. 1-4.
	CT	Jim Houck, "The Next Chapter in Web Advertising: ROI," ClickZ Network, 3/2/98, pp. 1-3.
	CU	Jim Houck, "ROI Part II: Know Your Variables," ClickZ Network, 3/9/98, pp. 1-4.
	CV	Jim Houck, "Classic Battle Strategy Revisited: The Marketing General Evaluates the Search Engines," ClickZ Network, 3/30/98, pp. 1-5.
	CW	Michael Hess, "No Question Is A Bad Question... Or Is It?" ClickZ Network, 4/7/98, pp. 1-3.
	CX	Jim Houck, "What's A Media Minute Worth?" Click Z Network, 4/13/98, pp. 1-3.
	CY	Gerry McGovern, "Building Brand: Brick by Brick," ClickZ Network, 4/28/98, pp. 1-4.
	CZ	Anon., "Novita Communications' New LiveLetter Software Lets Consumers Add Pizazz to Their Email Messages," Business Wire, April 28, 1998.
	DA	Rob Frankel, "Doing That Voodoo That You Do So Well," 6/98, pp. 1-3.
	DB	Gus Venditto, "A Message from E-Mail Publishers," May 11, 1998, pp. 1-3.

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	DC						
FOREIGN PATENT DOCUMENTS							
		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	DD						
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)							
	DE	Elizabeth Gardner, "Big Advertiser Plans Summit to Discuss Web Plans," May 11, 1998, pp. 1-2.					
	DF	"The Internet Advertising Discussion List," May 11, 1998, pp. 1-17.					
	DG	"The Internet Advertising Discussion List," May 23, 1998, pp. 1-7.					
	DH	Tom Hespos, "Is Rich Media The Gateway to Branding on The 'Net?'" WhosMarketingOnline, 6/2/98, (ClickZ Network, "Commerce. Counting the Cost of Banner Ads," pp. 1-3).					
	DI	Rick E. Bruner, "Affiliate Sales: Direct Marketer's Heaven, Publisher's Purgatory," Executive Summary, 6/2/98, pp. 1-4.					
	DJ	Riggs Eckelberry, "Whole Internet Marketing (Part 1)," ClickZ Network, 6/9/98, pp. 1-4.					
	DK	Theresa Howard, "Technology To Help Join Direct And Brand Marketing," Direct Marketing News, 6/12/98, (DM News Search, pp. 1-2).					
	DL	Steven Vonder Haar, "It's Not Banner Time for Web Advertising," Inter@ctive Week, 6/15/98, pp. 1-5.					
	DM	Riggs Eckelberry, "The 'Whole Internet' Marketing Strategy," ClickZ Network, 6/16/98, pp. 1-4.					
	DN	Tom Hespos, "The Blurred Line Between Advertising And Content," ClickZ Network, 6/16/98, pp. 1-3.					
	DO	Jesse Berst, "Web Advertising Woes (And How to Survive Them)," ZDNet, 6/16/98, pp. 1-3.					
	DP	Susan Nolan, "Does Anyone Have An International Game Plan?" ClickZ Network, 6/17/98, pp. 1-4.					
	DQ	Keith Pieper, "What's With You? The Top Internet Marketing Peeves!" ClickZ Network, 7/2/98, pp. 1-6.					
	DR	Janet Ryan, "Branding Really is Powerful on the 'Net,'" ClickZ Network, 7/6/98, pp. 1-3.					
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		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	DT						

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, etc.)</i>	
	DU Patricia Riedman, "Cyber Brands Spread The Word With Offline Ads," Advertising Age, 7/7/98, pp. 1-3.
	DV Tom Hespos, "Dabbling Before You Jump," ClickZ Network, 8/4/98, pp. 1-3.
	DW Larry Braitman, "The Real-Time Ad Market," ClickZ Network, 8/7/98, pp. 1-4.
	DX Jeffrey Brewer, "Pay-For-Performance: Creating More And Better Value," ClickZ Network, 8/18/98, pp. 1-5.
	DY Paul Festa, "Patent could push firms' buttons," CNET, August 21, 1998, pp. 1-4.
	DZ Leo Sheiner, "Branding on The Net: A Brave New World," ClickZ Network, 9/11/98, pp. 1-4.
	EA Leo Sheiner, "Do You Offer A Rich Experience?" ClickZ Network, 9/22/98, pp. 1-4.
	EB Gerry McGovern, "New Packaging For A New Age," ClickZ Network, 9/24/98, pp. 1-4.
	EC Jay Schwedelson, "The Main Event: Cost Per Click Vs. Cost per Impression," ClickZ Network, 9/25/98, pp. 1-3.
	ED Sean Carton, "Building Your Brand...One Hero At A Time," ClickZ Network, 9/30/98, pp. 1-4.
	EE Keith Pieper, "Maximize Your Revenue Per Eyeball," ClickZ Network, 10/1/98, pp. 1-4.
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	EI Tom Hespos, "How NOT To Build A Community," ClickZ Network, 11/17/98, pp. 1-3.
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EXAMINER'S SIGNATURE:	DATE CONSIDERED:
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Form PTO-1449

Attorney Docket No.
190701-1012Serial No.
10/620,947**INFORMATION DISCLOSURE CITATION***(Use several sheets if necessary)*Applicant
Gabbard et al.Filing Date
07/16/2003Group
To Be Assigned**U.S. PATENT DOCUMENTS**

Examiner Initials	Item	Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
	EL						

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	EM						

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

	EN	Rob McEwen, "The Little Things That Make A Difference," ClickZ Network, 12/10/98, pp. 1-3.
	EO	Anon., "Juno Gets Two More Patents Covering Offline Email," Computergram International, December 15, 1998.
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Examiner Initials	Item	Document Number	Date	Name	Class	Subclass	Filing Date If Appropriate
	FB						

FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation
							Yes No
	FC						

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)

	FD	AOL Instant Messenger, pp. 1-3, http://www.aol.com/aim/home.html .
	FE	Mirabilis LTD. - How to Use ICQ, pp. 1-8, http://www.ICQ.com/icqtour/new-quicktour.html .
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	FG	Penelope Patsuris, "Banner years: A brief history of web advertising," p. 1.
	FH	"Accipiter, AdManager 2.0," Product Overview, pp. 1-4, http://www.accipiter.com/products/ADManager/admgrov .
	FI	"How PointCast Works," pp. 1-4, http://www.pointcast.com/products/pcn/hwork.html?pcnidx .
	FJ	"Net Geography," pp. 1-7, http://www.emarketer.com/estats/net_geography_exp.html .
	FK	"Net Market Size and Growth: e-Mail," p.1, http://www.emarketer.com/estats/nmsg_email.htm .
	FL	"eCommerce: Top Spending Categories," pp. 1-3, http://www.emarketer.com/estats/ec_proj.html .
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	FQ	http://www.searchz.com/search/search.cgi?cat=Advertising:Articles,columns_and_reviews:Pricing_models; pp. 1-6.
	FR	http://www.searchz.com/search/search.cgi?cat=Advertising:Articles,columns_and_reviews:Branding; pp. 1-8.
	FS	Applicant's Statement (see Information Disclosure Statement, pg. 2).

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